

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Thursday, 01 May 2025</b>
Relevant Scrutiny Committee:	All Scrutiny Committees
Report Title:	Use of the Chief Executive's Emergency Powers
Purpose of Report:	To notify Cabinet of the exercising of Emergency Powers by the Chief Executive since the last report on 20th February, 2025.
Report Owner:	Executive Leader and Cabinet Member for Performance and Resources
Responsible Officer:	Rob Thomas, Chief Executive
Elected Member and Officer Consultation:	None required as the Constitution requires that any Emergency Powers approved be reported to Cabinet for information.
Policy Framework:	This is a matter for Executive decision by Cabinet. All actions fall within Paragraph 1 of the Chief Executive's Delegated Powers set out on page 329 of the Council's Constitution.
<p><b>Executive Summary:</b></p> <p>To advise Cabinet of the exercising of Emergency Powers by the Chief Executive since the last report of 20th February, 2025.</p> <p>The Council's Constitution at page 329 (delegated powers) states:</p> <p>1. Power to act, after consulting the appropriate Cabinet Member and, in the case only of matters involving the Council in financial commitments, the Leader(s), Section 151 Officer and the appropriate Chief Officer, in respect of any matter which, in his opinion:</p> <p>(a) requires immediate action; and</p> <p>(b) does not justify holding a special meeting of the body which would ordinarily consider the matter or is of such urgency or emergency as not to allow time for such a meeting; use of such delegated powers to be subsequently reported back to the Cabinet or Council as appropriate."</p>	

## **Recommendation**

1. That the use of the Chief Executive's Emergency Powers be noted.

## **Reason for Recommendation**

1. To inform Cabinet.

## **1. Background**

- 1.1 The Emergency Powers Procedure was approved by Minute No. 95, 2012/13.

## **2. Key Issues for Consideration**

- 2.1 To note the following use of the Chief Executive's Emergency Powers since the last report of 20th February, 2025.

### **(a) Highway Maintenance Contracts.**

The budget allocation for Surface Dressing treatments completed by Road Maintenance Services Ltd for the financial year of 2024/25 was £350K per annum, however given additional works required on site, the final spend was £369,526.08 with completed works.

The use of Emergency Powers was sought to increase the expenditure of the Highways Maintenance repairs and surface dressing treatment contracts above the estimated contract values, to complete essential works and reimburse the approved service providers.

(Scrutiny – Environment and Regeneration)

### **(b) Ty Dyfan Residential Home – Boiler Renewal Works.**

There was a scheme on the 2024/25 Capital Programme for Ty Dyfan Residential Home – Boiler Renewal Works with a budget of £140k. Further work was required in relation to the upgrading the boiler control systems to make them more efficient.

The use of Emergency Powers was sought to increase the Ty Dyfan Residential Home – Boiler Renewal Works budget of £140k on the 2024/25 Capital Programme, by £19k, to enable works to be undertaken for control upgrades of the new boiler system. The £19k would be funded from the unallocated budget under Decarbonisation schemes.

(Scrutiny – Corporate Performance and Resources and Healthy Living and Social Care)

### **(c) Local Transport Fund – Bus Priority Barons Court Traffic Modelling and Aberthaw Modal Study.**

Emergency Powers were sought to progress both schemes urgently as the funding would expire on 31st March, 2025.

The use of Emergency Powers was sought to request the inclusion of two new schemes on the 2024/25 Capital Programme for Bus Priority Barons Court Traffic modelling with a budget of £5k and Aberthaw Modal Study with a budget of £50k. Both schemes would be funded from grant through the Regional Bus Infrastructure Programme 2024/25.

(Scrutiny – Environment and Regeneration)

(d) Penarth Leisure Centre Replacement - Replacement Pool Pumps and Reduction in Edge Switching Budget.

The use of Emergency Powers was sought to include a new scheme for the replacement of the two primary swimming pool pumps (pool circulation) at Penarth Leisure Centre with a budget of £29k in the 2024/25 Capital Programme. The scheme would be funded from a virement from the Edge Switching scheme. The Edge Switching scheme was on the 2024/25 Capital Programme with a budget of £350k and was underspent. It was requested to vire £29k to the new Pool Pump scheme at Penarth Leisure Centre and as the remaining budget was no longer required, the balance of £71k to be removed from the 2024/25 Capital Programme.

(Scrutiny – Corporate Performance and Resources and Environment and Regeneration)

(e) Award of Contract for the Purchase of Two Refuse Collection Vehicles with Body Chassis and Bin Lift via Direct Award on the Crown Commercial Services (CCS) Framework.

The Council operated a fleet of recycling and refuse collection vehicles for the waste collection service. As part of the replacement programme four 16T refuse collection vehicles were due for replacement. Two vehicles would be replaced like for like and further investigations into alternative options for split body vehicles were being explored for the remaining two. A split body would have two separate compartments providing some flexibility for the vehicle to be used on refuse collection as well as some recycling.

The use of Emergency Powers was sought to approve the award of contract for the purchase two 16Tonne(T) Refuse Collection Vehicles via direct award on the Crown Commercial Services (CCS) framework as per the Council Constitution.

(Scrutiny – Environment and Regeneration)

(f) Additional School Maintenance Grant.

The Council had been awarded a further £715k School Maintenance grant from Welsh Government in 2024/25. The terms and conditions allow that the funding would be used in 2024/25 financial year for locally determined capital expenditure and the funding displaced by the grant would be spent in 2025/26 for investment in the improvement of schools in accordance with the grant terms and conditions. The grant would be placed into a specific reserve at the end of the financial year and would fund the schemes in the table below in 2025/26:

Scheme	£'000
St Joseph's RC Primary – Roof Renewal	470
Ysgol Sant Curig – Electrical Rewire Phase 2	165
Stanwell Comprehensive School Urgent Works Identified in Condition Survey	80
Total	715

The use of Emergency Powers was sought to start the procurement process and to allocate the grant against identified schemes.

(Scrutiny – Learning and Culture)

(g) Targeted Regeneration Investment Loan – Variation of Terms (Part II summarised below)

In accordance with Cabinet Minute C545(1) 7<sup>th</sup> January 2019 the Council secured capital funding from the Welsh Government's Targeted Regeneration Investment (TRI) Programme for a loan to a developer to part fund the IQ Hood Road Goods Shed Redevelopment.

The use of Emergency Powers was currently being sought -

For the Director of Place (in consultation with the Leader, the Deputy Leader and Cabinet Member for Sustainable Places, the Chief Executive, the Monitoring Officer/Head of Legal and Democratic Services, Head of Finance/S151 Officer) to be authorised to negotiate and agree the terms of extending the date by which the developer must repay the TRI Loan to the Council; and by when the Council will repay the TRI Loan to the Welsh Government with the respective parties.

To seek authority for the Monitoring Officer/Head of Legal and Democratic Services and Operation Manager Legal Services to prepare, execute and complete all legal documentation associated with the Variation of the Terms of the Targeted Regeneration Investment Loan.

(Scrutiny – Environment and Regeneration)

(h) Re-Profiling of Decarbonisation Schemes.

The use of Emergency Powers was sought to request the re-profile of the Decarbonisation schemes in the 2024/25 and 2025/26 Capital Programme as indicated in the table below. Summary of changes:

Scheme	2024/25	2025/26	2024/25	2025/26	Request
	Approved	Approved	Revised	Revised	
	£000	£000	£000	£000	
Decarbonisation (Unallocated)	0	0	47	45	
Ysgol Sant Curig Lighting Renewal	0	45	0	0	Vire unrequired budget of £45k to the unallocated budget in 2025/26
Penarth Learning Community PV Panels	158	0	10	148	Carry forward £148k of this budget to 2025/26 Capital Programme
Cogan Primary PV	41	0	1	0	Vire £30k to the unallocated budget in 2024/25 Capital Programme and £10k to the iQ3 to iQ4 system conversion scheme
St Joseph's PV Panels	45	0	42	0	Scheme complete, request to vire £3k to the Unallocated Budget scheme in the 2024/25 Capital Programme
Ysgol Sant Curig PV Panels	14	0	0	0	Vire scheme budget to the Unallocated budget in the 2024/25 Capital Programme.
iQ3 to iQ4 system conversion	144	0	71	83	Carry forward £83k of this scheme budget to 2025/26 Capital Programme and increase 2025/26 budget by £10k virement

					from Cogan Primary scheme
	402	45	171	276	

(Scrutiny – Corporate Performance and Resources)

(i) Hybrid Mail and MFD.

A letter of intent had been drafted by the Council’s Legal team to enable the successful supplier to initiate the implementation phase of the new MFD (Printer) and Hybrid projects to ensure that there was no break in availability of printing services, as the existing contracts were due to expire on 31st March, 2025.

The use of Emergency Powers was sought to allow for delegated authority to be granted to the Monitoring Officer / Head of Legal and Democratic Services to prepare, negotiate where necessary and execute all contractual documentation required to enter into the agreements.

(Scrutiny – Corporate Performance and Resources)

(j) Disposal of Land to Cardiff and Vale College for Proposed Educational Campuses.

In March 2019 Cabinet resolved to grant authority to dispose land to Cardiff and Vale College comprising a site in the Innovation Quarter at Barry Waterfront and a site near to Cardiff Airport (Cabinet Minute C621 refers).

Since Cabinet in March 2019 there have been changes to the portfolio title of the Cabinet Member and the job titles of two of the senior managers referred to in Cabinet Minutes C621.

The use of Emergency Powers was sought to provide clarity regarding the delegated powers granted by Cabinet Minutes C621.

(Scrutiny – Environment and Regeneration)

(k) Housing Care Fund grants – Disabled Facilities Grant and Tech Enabled Care.

Additional funding had been secured in respect of three amounts from the Regional Partnership Board as indicated below:

- £124k – to drive several projects and discoveries to help the Council to monitor and assess people assisted by technology to enable them to stay at home for longer.
- £115k – allocation for Disabled Facilities grants
- £60k – additional allocation for Disabled Facilities grants

The use of Emergency Powers was sought to include three grants from the Regional Partnership Board in the 2024/25 Capital Programme.

(Scrutiny – Homes and Safe Communities and Healthy Living and Social Care)

(l) Write off Two Historical Debts Greater than £10K in Value.

The write offs needed to be approved ahead of 31st March, 2025 to feed into the outstanding debtor position in the 2024/25 statutory accounts. It had been the intention to seek approval in the Q3 Monitoring Revenue Monitoring but the debtors originate in 2016/17 and 2017/18 and the supporting information was not readily available. The two debts were irrecoverable.

The use of Emergency Powers was sought to write off:

- i. £12,350.62 (10,292.18 plus VAT) Cuddy Demolition and Dismantling Ltd and
- ii. £13,525.72 (11,272.67 plus VAT) Diving and Marine Engineering Ltd

(Scrutiny – Corporate Performance and Resources)

(m) Licence for Temporary Site Compound.

In accordance with Cabinet Minute C621 (and Emergency Powers approved in December 2021) the Council had exchanged contracts with Cardiff & Vale College to dispose of land by virtue of a long lease, for a new educational campus (aka Advanced Technology Centre (ATC)).

The works contractor that would build the campus wished to locate its Site Compound (during the construction period of the new college) on land owned by the Council for a term of 124 weeks,

The use of Emergency Powers was sought for the Council to enter into Licence for a temporary Site Compound with the works contractor of the proposed educational campus (aka Advanced Technology Centre) near Cardiff Airport.

(Scrutiny – Environment and Regeneration)

(n) Rhws Primary School – Nursery PV Panels and Playground Pergola.

Grant funding had been confirmed from Centrica (Energy for Tomorrow) for £48,950 to support the installation of PV Panels on the nursery roof at Rhws Primary school and the supply and installation of a pergola in the playground at the site. £45,000 of the grant would be retained by the supplier installing the PV panels and pergola. The balance of £3,950 would be paid to the Council for groundworks.

The use of Emergency Powers was sought to request the urgent signing of the contract in relation to a grant for the installation of PV panels on the nursery roof at Rhws Primary School and the supply and installation of a pergola in the playground at the site.

(Scrutiny – Learning and Culture)

(o) Free School Meal Scheme – Victoria Primary School.

Following a tender process undertaken via the Welsh Procurement Alliance modular buildings framework, the total cost of the scheme with fees and sundry costs would be £1.075m. Following the tender process and detailed negotiations with the lowest bidder, the contractor could now be appointed to undertake the works for the fixed contract sum of £1.008m.

The use of Emergency Powers was sought to:-

- To appoint a contractor for the Free School Meal scheme at Victoria Primary School following a tender process; total costs with fees and sundry costs would be £1.075m.
- To increase the budget by £100k in the 2025/26 Capital Programme. The scheme was in the 2024/25 and 2025/26 Capital Programme with an overall budget of £975k funded from grant.
- That the £100k would be funded from a £50k virement from the unallocated Education Asset Contingency budget in the 2024/25 Capital Programme, £31k from Capital Scheme Reserve, £5k capital receipt and £14k from the Catering Equipment reserve. A submission for grant would be made to Welsh Government for the £100k and if successful the internal funds would not be required. The approach was being taken in order to not delay the scheme.

(Scrutiny – Learning and Culture)

(p) Burley Place St Athan - Use as a Children's Home.

The property was an existing Council property which had been appropriated by Social Services from the Council's Housing stock and required upgrading works to ensure it met the required Care Inspectorate for Wales (CIW) standards.

The use of Emergency Powers was sought to request the exemption from contract procedure rules and accept the submitted price for the renovation works at 1 Burley Place, St Athan for use as a Children's Home.

(Scrutiny – Healthy Living and Social Care)

(q) Asset Transfer of Electric Bicycles.

The Vale of Glamorgan ran a pilot project providing electric bicycles to domiciliary care agencies for greener active travel to care calls in 24/25. The pilot had been supported by a third sector provider and contracts ended with the provider on 31st March, 2025. A decision was required concerning the ongoing use of the electric bicycles before the end of the contract, to ensure their continued use and benefits.

The use of Emergency Powers was sought to see continued use of the e-bikes within the care agencies with asset transfer of the e-bikes directly from Sustrans to the care agency identified. The Council would retain 7 remaining e-bikes for pilot use within day services and schools with an aim to test carbon reduction models with alternative transport options.

(Scrutiny – Healthy Living and Social Care)

(r) Stanwell Comprehensive Boiler.

The use of Emergency Powers was sought:-

- To include a new scheme for Stanwell Comprehensive Boiler works in the 2024/25 and 2025/26 Capital Programme with a budget of £18k and £132k respectively. The total scheme cost would be £150k.
- To appoint the contractor in respect of those works.

(Scrutiny – Learning and Culture)

(s) Acquisition of Regeneration Property. (Part II EP summarised below)

A request was received to delegate specified powers to bid on, and if successful to acquire a retail development in Barry Town Centre. The actions taken support and align with the Council's strategic goals in relation to regeneration plans for Barry Town Centre informing future decision making and strategic planning.

The use of Executive Powers was therefore sought -

- To authorise the bidding on, with a view to purchase a regeneration property under Emergency Powers, in accordance with the Council's Constitution and Financial Procedure Rules.
- To seek approval to accept loan funding to enable the acquisition of the property.
- To approval to use existing approved loan products to enable the acquisition of the of the property.
- To seek approval to use Council reserves to enable the acquisition of the property.
- To seek approval to use existing budgets to fund professional fees and other costs linked to the sale.
- To seek approval to amend the 2024/25 Capital Programme in line the purchase amount should the acquisition go ahead.

(Scrutiny – Environment and Regeneration)

(t) Contract Sum Uplift - Sterling UK Construction Ltd for the New Development at Llys yr Eglwys, Barry, CF62 9BA.

Sterling Construction Ltd were appointed on 12th October, 2022 to manage and complete the construction of 14no. new Council apartments at former Colcot Clinic, Llys yr Eglws, Keats Way, Barry CF62 9BA. The original value of the contract was £2,244,901.81 with an estimated start on site on 14th November, 2022 (Demolition of Colcot Clinic), and a Practical Completion target date of 19th August, 2024.

Additional costs had been incurred, that had either been as a result of delays to the original construction programme, the Councils' instructions or, in undertaking additional works that were outside the scope of their original works packages.

The use of Emergency Powers was sought to uplift the original contract sum from £2,244,901.81 to £2,448,609.84.

(Scrutiny – Homes and Safe Communities)

(u) Construction Management Contract Sum Uplift No.2 – Synergy Construction Management Ltd at Coldbrook Road East, Barry.

Synergy Construction Management Ltd (SCML) were appointed on 21st December, 2023 to manage and complete the construction of 20no. new Council apartments at Coldbrook Road East, Barry after the original contractor/developer was unable to fulfil their contractual obligations.

The original value of the contract was £208,753.65 with an estimated construction programme of 31 weeks from a start on site on 11th March, 2024 and a Practical Completion target date of 14th October, 2024.

On 14th November, 2024, the SCML contract sum was uplifted to £358,198.70, an increase of £149,445.05 to their original contract sum and the Practical Completion date was revised to the 27th March, 2025.

The use of Emergency Powers was sought to add a further 9 weeks to the construction programme for which the additional uplift was sought, revising the final contract sum to £413,346.58, an increase of £55,147.88 over the first contract sum uplift of £358,198.70.

(Scrutiny – Homes and Safe Communities)

(v) Construction Management Contract Sum Uplift No.2 – Synergy Construction Management Ltd at Olive Lodge , 2 Port Rd, Barry, CF62 9PT.

Synergy Construction Management Ltd (SCML) were appointed on 15th February, 2024 to manage and complete the redevelopment of former B&B Olive Lodge into 10no. new council temporary/emergency accommodation at 2 Port Road, Barry CF62 9PT.

The original Construction Management Fee was based on a 54-week duration split between 11 weeks preconstruction and 43 weeks Construction period. The preconstruction started 18th March, 2024 and lasted 11 weeks.

The original value of the contract was £285,868.49 with an estimated construction programme of 43 weeks (Construction phase) from a start on site on 8th July, 2024 and a Practical Completion target date of 2nd May, 2025.

The use of Emergency Powers was sought to revise the Practical Completion date to 18th July, 2025, adding 11 weeks to the construction programme for which the uplift of their original contract sum to £366,598.67 was sought, an increase of £80,730.18.

(Scrutiny – Homes and Safe Communities)

(w) Ysgol Gymraeg Iolo Morganwg Tender Appointment and approval to proceed with Professional services contract.

The tender for Ysgol Gymraeg Iolo Morganwg had been issued through SEWSCAP Framework 4. A Part II exemption form had been completed for the associated Emergency Powers request to ensure confidentiality around the successful contractor.

The use of Emergency Powers was sought to:-

Accept a competitive tender for the construction of Ysgol Gymraeg Iolo Morganwg and appointment of the successful contractor and allow the Council to enter into a Professional Services Contract only with the successful contractor,

(Scrutiny – Learning and Culture)

### **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

- 3.1** The use of the Chief Executive's Emergency Powers is required on occasions when the urgency means that there is no time for the issue to be considered by the relevant Committee.
- 3.2** The purpose of presenting the report for information is to ensure that all Emergency Powers that have been approved are notified to Cabinet and / or Council as appropriate.
- 3.3** The Well-being of Future Generations (Wales) Act sets out effective transparency as a key part of improving the delivery of public bodies.
- 3.4** The Act requires public bodies to communicate and explain the processes of selecting its well-being objectives and why these objectives have been chosen, how decisions are taken in line with these objectives and what difference these objectives have made.
- 3.5** The importance of presenting the report to Cabinet is to ensure that transparency has taken place and to inform the Cabinet of the Emergency Powers that have been undertaken for the relevant reasons contained within the reports.

### **4. Climate Change and Nature Implications**

- 4.1** There are no direct climate and nature implications associated with the report.

### **5. Resources and Legal Considerations**

#### **Financial**

- 5.1** The procedure requires that these be taken into account by the Committee / Departments originating the requests for the use of Emergency Powers.

#### **Employment**

- 5.2** The procedure requires that these be taken into account by the Committee / Departments originating the requests for the use of Emergency Powers.

### **Legal (Including Equalities)**

#### **5.3** The Council's Constitution states:

1. Power to act, after consulting the appropriate Cabinet Member and, in the case only of matters involving the Council in financial commitments, the Leader, Section 151 Officer and the appropriate Chief Officer, in respect of any matter which, in his opinion:

(a) Requires immediate action; and

(b) Does not justify holding a special meeting of the body which would ordinarily consider the matter or is of such urgency or emergency as not to allow time for such a meeting; use of such delegated powers to be subsequently reported back to the Cabinet or Council as appropriate.

### **6. Background Papers**

Relevant Emergency Powers proformas.